

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

STANLEY HERBERT	:	CASE NO. C-1-00-855
	:	Judge Weber
Plaintiff,	:	
	:	
vs.	:	
	:	<u>DECLARATION OF</u>
MILFORD TOWING & SERVICE, INC.,	:	<u>STANLEY HERBERT</u>
et. al,	:	
	:	
Defendants.	:	

1. I am the plaintiff in the above captioned action.

2. During the entire time I worked for Milford Towing there was no sexual harassment policy. I am aware that Milford Towing now claims that the poster shown in Plaintiff's Exhibit #1 was posted in the shop. There was no such poster in the shop area while I worked at Milford Towing and I never saw such a poster. I am aware that Milford Towing claims it had a policy manual that contained a sexual harassment policy. I never was given a policy manual or shown a policy manual while I worked for Milford Towing. There was never any discussion or training on sexual harassment while I worked there.

3. Without a sexual harassment policy, I did not know how to stop Mr. Mr. Klute from harassing me. I was afraid of the owner, Don Trammell, because I saw him lose his temper at others and at me on many occasions. Mr. Trammell once screamed at me and backed me up against the wall when I pointed out he owed me \$100. On another occasion I saw Mr. Trammell threaten to hit a manager and other employees. The one

Exh. "B"

time I complained to Mr. Trammell about another employee interfering with my work, Mr. Trammell told me to take the employee out back and fight him. Mr. Trammell said he did not have time for problems at the repair shop and he had enough problems with the towing business. I also did not go to Mr. Trammell because he is Mr. Klute's great-uncle.

4. I did not like Mr. Klute or anyone else goosing me. I did not consider goosing horseplay, I considered it sexual. Whenever someone goosed me I told him to stop it, including Mr. Klute. For example, Bill Gardner grabbed me at the back of my leg, just above my knee. I told him to stop and he did. He never did it again.

5. Mr. Klute began grabbing me on the back of my legs in 1999. Mr. Klute would sneak up on me from behind while I was bent over the hood of an automobile I was working. Mr. Klute would grab with his hand the back of my leg near my buttocks and squeeze. I would let out a shriek and Mr. Klute would run away. At first Mr. Klute grabbed me just above my knees or the middle of my leg and squeeze and let go. I complained each time. This escalated in the summer of 1999. Mr. Klute started grabbing me near my buttocks and on my buttocks. Mr. Klute would grab and squeeze my buttocks. Again, I objected. Then Mr. Klute started poking his finger in the crack between my buttocks and squeezed my testicles against my leg. I repeatedly told Mr. Klute not to touch me but Mr. Klute continued, sometimes two or three time in a day.

6. Because I could not hear Mr. Klute coming up behind me I was constantly on the alert because I did not know when the next attack would come. I became afraid to bend over to work under the hood and became more and more nervous and anxious. Around the middle of August 1999, I began to have problems sleeping. I had problems getting to

sleep because the grabbing was really bothering me. I wanted him to stop and because he was my boss I didn't know how to make him stop.

7. On Wednesday, September 1, 1999, two times in four hours, Mr. Klute snuck up behind me and grabbed my buttocks, squeezed real hard for several seconds and then put his finger in my crack. Everyone was laughing and I had a panic attack. My face was red, I could not think, I felt I wanted to run out of the building. I was embarrassed.

8. On the morning of September 2, I awoke from a nightmare in a cold sweat and could not go back to sleep. I went to work early and confronted Mr. Klute. I told Mr. Klute to stop goosing me or I would quit. Mr. Klute became very angry, his face became red, and he walked away from me. Mr. Klute then delayed assigning work to me so my pay for the day was lower than normal. At this point I was back on flat rate, so if Mr. Klute did not assign me work, I would not earn any pay. Mr. Klute then had me stand around for about four hours without assigning me any work. I lost about four hours pay. About 3:00 p.m. that afternoon, Mr. Klute came to me and said in an angry voice that I had to stay late whether I like it or not. He said I had to work late until 8:30 p.m. I told him I would not. He got angry, his face was red. I became afraid of him because I had heard him brag about the fights he won. I told him to leave me alone or I would leave. He refused to leave so I locked my box and went home to avoid a confrontation with him.

9. Because Mr. Klute stopped assigning me work on September 2nd, sent me home without pay on September 3rd, docked my holiday pay and changed my working hours, I believed he was trying to make me quit. His actions and words made it clear to me that my job at Milford Towing had drastically changed because I told him to stop goosing me. I left work that day and did not return. I did not ask for a raise on September 2 and

therefore did not quit because of not getting a raise. Nor did I quit because of a dispute regarding my starting time as alleged by Bill Garner.

10. In late November 1999, I applied for several repair jobs in the Milford area but was not hired. I went to Jacob's Auto Service on November 22nd to apply for an opening, Mike Jacobs told me that Mr. Klute had called him a few days earlier and told him that I was a bad mechanic and had sued him for sexual harassment and not to hire me. That same day, I went to the owner of Day Heights Auto Service to apply for work because they had a job wanted sign up for two mechanics. The owner, Rick Kellerman, told me he did not want to "get involved." I did not get a job there either.

11. Because I could not hear Mr. Klute coming up behind me I was constantly on the alert because I did not know when the next attack would come. I became afraid to bend over to work under the hood and became more and more nervous and anxious. Around the middle of August 1999, I began to have problems sleeping. I had problems getting to sleep because the grabbing was really bothering me. I wanted him to stop and because he was my boss I didn't know how to make him stop.

12. On September 2, 1999, I had a nightmare that I was bent over a car and Quentin was grabbing my buttocks with his fingers in my crack and he was pushing me as I jumped. This nightmare kept going on and on with no way to escape. I woke up really early and couldn't get back to sleep.

13. Toward the middle of August 1999 I began to have anxiety attacks. I had a tightness in my chest, it was like a shockwave across my chest, an intense pain after awhile, tingling and numbness in my hands, and couldn't concentrate.

14. After I quit Milford Towing, I continued to have dreams where I had a feeling of fear, felt that someone was sneaking up behind me and grabbing my butt or grabbing my testicles. I felt that I had no control to make him stop. These dreams continued until my therapist began a new type of treatment called EMDR in late October 2001.

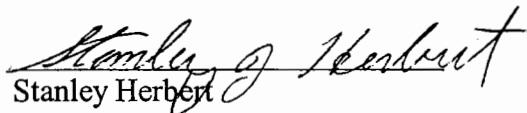
15. I no longer enjoy many of my favorite activities such hunting, fishing, and shooting trap. I used to trap shoot three or four times a week but I have shot trap only twice in the past year. Both times I had a panic attack and left early. I have drastically cut back on hunting and fishing both in frequency and in actual time.

16. For more than two years after I left Milford Towing I continued to have anxiety attacks and panic attacks. When I am in a checkout line in a store I get nervous, scared that some is sneaking up behind me and I fear that I might be goosed. If someone is standing behind me I turn my body sidewise. I get sweaty. I feel that I am not in control of myself.

17. While I worked at Milford Towing I received no complaints from customers or my bosses about by work.

I, declare under the penalty of perjury under the laws of United States of America that the foregoing is true and correct.

Dated: 12/21/01

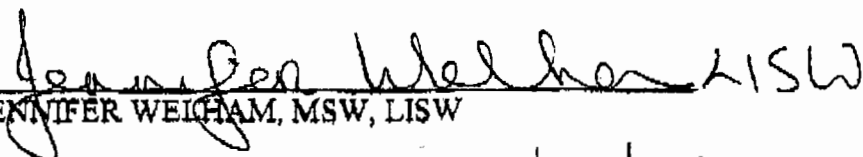

Stanley Herbert

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

STANLEY HERBERT	:	Case No. C-1-00-855
	:	
Plaintiff,	:	Judge Weber
	:	
vs.	:	<u>DECLARATION OF JENNIFER</u>
	:	<u>WELHAM, MSW, LISW</u>
MILFORD TOWING & SERVICE,	:	
INC., et al.,	:	
	:	
Defendants.	:	

I, JENNIFER WELHAM, declare under the penalty of perjury under the United States of America that the foregoing is true and correct.

1. I am a clinical therapist with a Masters Degree in Social Work. I am a Licensed Independent Social Worker. I am licensed by the State of Ohio.
2. I have been employed by the Clermont Counseling Center for ten years.
3. I have been treating Stanley Herbert at the Clermont Counseling Center since June 2001.
4. Mr. Herbert has been diagnosed by Clermont Counseling Center with Post Traumatic Stress Disorder as a result of the sexual harassment he received at Milford Towing while he was a mechanic there.
5. I am treating Mr. Herbert for his disorder with cognitive therapy and Eye Movement Desensitization Reprocessing ("EMDR"). Mr. Herbert is still in the process of recovering.


JENNIFER WELHAM, MSW, LISW
EXECUTED ON THIS DATE OF 12/29/01

Exh. "A"